

211 CMR 74.00: STANDARDS OF FAULT TO BE USED BY THE BOARD OF APPEAL ON MOTOR VEHICLE LIABILITY POLICIES AND BONDS AND INSURERS IN DETERMINING THE APPLICATION OF SURCHARGES IN ACCORDANCE WITH M.G.L. c. 175, § 113P

Section

74.01: Authority
74.02: Definitions
74.03: Purpose and Scope
74.04: Situations in Which Fault is Presumed to be More Than 50%

74 .01: Authority

211 CMR 74.00 is promulgated in accordance with the authority granted the Board of Appeal on Motor Vehicle Liability Policies and Bonds by M.G.L. c. 26, § 8A, and M.G.L. c. 175, § 113P.

74.02: Definitions

Accident, an unexpected, unintended event that causes damage to the operator's vehicle, another vehicle, or other property, such damage arising out of the ownership, maintenance or use of a vehicle.

Board, Board of Appeal on Motor Vehicle Liability Policies and Bonds established pursuant to M.G.L. c. 26, § 8A.

Center line, pavement marking, imaginary, drawn, or otherwise designated, which separates traffic moving in opposite directions.

Collision, the accidental upset of a vehicle or any physical contact of a vehicle with an object or a person.

Operator, any person who operates a motor vehicle.

Safe Driver Insurance Plan, the adjustment of insurance rates and premiums on the basis of at-fault accidents, comprehensive claims and traffic law violations pursuant to M.G.L. c. 175, § 113B.

Vehicle subject to the Safe Driver Insurance Plan, any private passenger vehicle rated in accordance with the Massachusetts Private Passenger Automobile Insurance Manual.

74.03: Purpose and Scope

The standards established by 211 CMR 74.00 shall be used by insurers and the Board in determining whether an operator is more than 50% at fault for the purpose of applying the Safe Driver Insurance Plan. The presumptions raised as to an operator being more than 50% at fault, as described in 211 CMR 74.04, shall be considered determinative unless and until the operator overcomes the presumption by producing sufficient evidence at an initial review or hearing held in accordance with the rules of the Board.

74 .04: Situations in Which Fault is Presumed to be More Than 50%

(01) Collision with a Lawfully or Unlawfully Parked Vehicle. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with a lawfully or unlawfully parked vehicle.

(03) Rear End Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with the rear section of another vehicle.

74.04: continued

(05) Out of Lane Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is partially or completely out of its proper lane and is in collision with another vehicle:

- (a) while being passed by the other vehicle, the passing vehicle being in its proper lane;
- (b) while passing the other vehicle, the other vehicle being in its proper lane; or
- (c) while changing or turning into or across the other vehicle's lane.

(07) Failure to Signal. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision while failing to signal as required by law before turning or changing lanes.

(08) Failure to Proceed with Due Caution from a Traffic Control Signal or Sign. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the operator fails to obey a traffic control signal or sign, or fails to proceed with due caution therefrom, and whose vehicle is thereafter in a collision with another vehicle.

(09) Collision on Wrong Side of Road. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with another vehicle which is moving in the opposite direction on the proper side of the roadway or center line.

(10) Operating in the Wrong Direction. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle in the wrong direction on a travel lane, one-way street, or highway, and whose vehicle is thereafter in a collision with another vehicle.

(11) Collision at an Uncontrolled Intersection. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with another vehicle at an uncontrolled intersection:

- (a) if the operator's vehicle enters a main road from a secondary road,
- (b) if both vehicles enter the intersection at the same time, and such operator's vehicle entered the intersection from the left of the other vehicle, failing to allow the vehicle on the right to proceed, or
- (c) if the operator's vehicle enters the intersection at a point in time later than the other vehicle.

(14) Collision While in the Process of Backing Up. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in the process of backing up and whose vehicle is thereafter in a collision with another vehicle.

(15) Collision While Making a Left Turn or U-Turn Across the Travel Path of a Vehicle Traveling in the Same or Opposite Direction. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle making a left turn or U-turn across the path of travel of another vehicle moving:

- (a) in the same direction, or
 - (b) in the opposite direction,
- and whose vehicle is in a collision with such vehicle.

(17) Leaving or Exiting from a Parked Position, Parking Lot, Alley or Driveway. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is leaving or exiting from a parked position, parking lot, alley or driveway, and whose vehicle is in a collision with another vehicle.

(18) Opened or Opening Vehicle Door(s). The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the vehicle's door or doors are opened or opening resulting in a collision with another vehicle.

74.04: continued

(19) Single Vehicle Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating the only vehicle involved in a collision.

(20) Failure to Obey the Rules and Regulations for Driving. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the operator violates any provision of M.G.L. Chs. 85, 89 or 90, or fails to obey the following regulations: The Metropolitan District Commission (350 CMR), Registry of Motor Vehicles (540 CMR), MA Department of Highways (720 CMR), MA Turnpike Authority (730 CMR), or MA Port Authority (740 CMR), and whose vehicle is in a collision with another vehicle.

(21) Unattended Vehicle Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the vehicle is left unattended and rolls resulting in a collision.

(26) Collision While Merging onto a Highway, or into a Rotary. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle merging onto a highway, or into a rotary, when the other vehicle is already on the highway, or in the rotary, resulting in a collision.

(27) Non-Contact Operator Causing Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is not in a collision, but whose actions cause the collision of one or more other vehicles.

(29) Failure to Yield the Right of Way to Emergency Vehicles when Required by Law. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the operator fails to yield the right of way to emergency vehicles (as required by M.G.L. c. 89, § 7) resulting in a collision.

(31) Collision at a "T" Intersection. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle coming from a roadway that terminates onto a throughway and whose vehicle is in a collision with another vehicle traveling on that intersecting throughway.

REGULATORY AUTHORITY

211 CMR 74.00: M.G.L. c. 26, § 8A; c. 175, § 113P.

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